

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE S.ANANDA REDDY
MONDAY, THIS THE NINTH DAY OF JULY,
TWO THOUSAND AND SEVEN
WRIT PETITION No.11231 of 2004

Between:
Sri Nirmal Kumar Jhawar,
Ex-Proprietor of M/s. Suraj Traders & Industries,
IDA, Nellimarla, Vizianagaram.

...Petitioner

And

Commissioner of Industries,
Andhra Pradesh, Hyderabad
And two others.

...Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE S.ANANDA REDDY
W.P. No. 11231 of 2004

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard the learned counsel for the parties.

2. The Unit was owned originally by the petitioner, Mr. Nirmal Kumar Jhawar. He sold the Unit to Sri P. Markandeyulu on 04.04.2003. The petitioner had been granted a certificate for exemption of sales tax for a period of seven years to the extent of Rs.4,53,038/- of which the petitioner had availed exemption of Rs.2,22,150/-. After the Unit was sold, the petitioner approached the Department seeking permission for change of Management, which was refused by the respondents on the ground that such an application had to be made prior to the change of the ownership. Now, the liability of the petitioner after cancellation of the incentive certificate for the relevant period would revive.
3. We feel that by change of ownership, particularly in those cases in which tax exemption is granted and deferment is not granted, the purpose of granting incentive would not be defeated. There can be restrictions imposed once the incentives are granted. But those conditions and restrictions should have the relation with the object that is sought to be achieved by granting concessions. By changing the ownership of a particular Unit during the period the Unit enjoys the concession, if it does not result in defeating the object of grant of concessions, then such a course should be opened to the owners of the Units. We can understand the withdrawal of concessions and exemptions in case the Unit's place of business is changed, or the line of production is changed, or the production is stopped. But it is hard to understand how the purpose of concessions granted would be defeated if the ownership is changed and the Unit continues to work as it was working with the owner. We can also understand if the concession granted was a deferment of tax, because that may create problems at the time of recovery. But, we cannot understand the difficulty where it was a case of exemption.
4. In view of these observations, we direct the petitioner to make a fresh representation to Respondent No.2, the General Manager, who may consider the same for change of ownership, in the light of the observations made by us hereinabove.
5. The writ petition is, accordingly, disposed of. The proceedings of recovery initiated by the 3rd respondent shall remain stayed till the

is again decided by the 2nd respondent, and shall be subject to the order passed by the District Level Committee. No costs.

Bilal Nazki, J.

S.Ananda Reddy, J.

Dt. 09...07...2007
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**THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE S.ANANDA REDDY**

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W.P. No. 11231 of 2004

ORDER

(Per Hon'ble Mr. Justice Bilal Nazki)

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